General Assembly

Distr.: General
23 January 2003

Fifty-seventh session
Agenda item 109 (*c*)

Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/57/556/Add.3)*]

57/232. Situation of human rights in Iraq

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in this field,

Aware that Iraq is a party to the International Covenants on Human Rights, other international human rights instruments and the Geneva Conventions of 12 August 1949 for the protection of victims of war,[3]

Recalling its previous resolutions on this subject, the most recent of which is resolution 56/174 of 19 December 2001, and those of the Commission on Human Rights, the most recent of which is resolution 2002/15 of 19 April 2002,[4]

Recalling also Security Council resolution 686 (1991) of 2 March 1991, in which the Council called upon Iraq to release all Kuwaitis and nationals of other States who might still be held in detention, Council resolution 687 (1991) of 3 April 1991, Council resolution 688 (1991) of 5 April 1991, in which the Council demanded an end to repression of the Iraqi civilian population and insisted that Iraq cooperate with humanitarian organizations and that the human rights of all Iraqi citizens be respected, Council resolutions 986 (1995) of 14 April 1995, 1111 (1997) of 4 June 1997, 1129 (1997) of 12 September 1997, 1143 (1997) of 4 December 1997, 1153 (1998) of 20 February 1998, 1175 (1998) of 19 June 1998, 1210 (1998) of 24 November 1998, 1242 (1999) of 21 May 1999, 1266 (1999) of 4 October 1999, 1281 (1999) of 10 December 1999, 1302 (2000) of 8 June 2000, 1330 (2000) of 5 December 2000, 1352 (2001) of 1 June 2001, 1360 (2001) of 3 July 2001 and

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[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

[4] See *Official Records of the Economic and Social Council, 2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.

1382 (2001) of 29 November 2001, in which the Council authorized States to permit imports of Iraqi oil in order to allow Iraq to purchase humanitarian supplies, Council resolution 1284 (1999) of 17 December 1999, in which the Council, by means of a comprehensive approach to the situation in Iraq, inter alia, removed the ceiling for the allowable import of Iraqi oil in order to increase the amount of revenue available for the purchase of humanitarian supplies, laid down new provisions and procedures designed to improve the implementation of the humanitarian programme and to further achievement in meeting the humanitarian needs of the Iraqi population and reiterated the obligation of Iraq to facilitate the repatriation of all Kuwaiti and third-country nationals referred to in paragraph 30 of Council resolution 687 (1991), and the most recent resolution of the Council, 1409 (2002) of 14 May 2002, in which the Council significantly eased the United Nations sanctions on Iraq,

Taking note of the concluding observations of the Human Rights Committee,[5] the Committee on the Elimination of Racial Discrimination,[6] the Committee on Economic, Social and Cultural Rights,[7] the Committee on the Rights of the Child[8] and the Committee on the Elimination of Discrimination against Women[9] on the most recent reports submitted to them by Iraq, in which these treaty-monitoring bodies point to a wide range of human rights problems and express the view that the Government of Iraq remains bound by its treaty obligations, while pointing to the adverse effect of sanctions on the daily life of the population, in particular women and children,

Reaffirming that it is the responsibility of the Government of Iraq to ensure the well-being of its entire population and the full enjoyment of all human rights and fundamental freedoms,

Deploring all violations of human rights and international humanitarian law in Iraq, as mentioned in the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq,[10]

Concerned about the lack of procedural and substantive safeguards in the administration of justice in Iraq, including in the application of the death penalty,

Appealing to all concerned to fulfil their mutual obligations in the management of the humanitarian programme referred to in Security Council resolution 986 (1995) and other relevant Council resolutions,

1. *Welcomes*:

(*a*) The report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq[10] and the exploratory visit by the Special Rapporteur to Iraq from 11 to 15 February 2002, which could serve as a basis for future cooperation and constructive dialogue;

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[5] *Official Records of the General Assembly, Fifty-third Session, Supplement No. 40* (A/53/40), vol. I, paras. 90–111.

[6] Ibid., *Fifty-fourth Session, Supplement No. 18* (A/54/18), paras. 337–361.

[7] *Official Records of the Economic and Social Council, 1998, Supplement No. 2* (E/1998/22), paras. 245–283.

[8] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 41* (A/55/41), paras. 304–333.

[9] Ibid., *Supplement No. 38* (A/55/38), part two, chap. IV, sect. B, paras. 166–210.

[10] See A/57/325.

(*b*) Security Council resolution 1409 (2002), in which all exports to Iraq are allowed except for items which are on the goods review list[11] and which are therefore subject to review by the Sanctions Committee;

2. *Notes* that:

(*a*) The Government of Iraq has responded in writing to some requests for information made by the Special Rapporteur;

(*b*) The Government of Iraq has accepted a second visit by the Special Rapporteur;

3. *Expresses grave concern* that there has been no improvement in the situation of human rights in the country;

4. *Strongly condemns*:

(*a*) The systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror;

(*b*) The suppression of freedom of thought, religion and belief, expression, information, association, assembly and movement through fear of arrest, imprisonment, execution, expulsion, house demolition and other sanctions;

(*c*) The repression faced by any kind of opposition, in particular the harassment and intimidation of and threats against Iraqi opponents living abroad and members of their families;

(*d*) The widespread use of the death penalty in disregard of the provisions of the International Covenant on Civil and Political Rights[2] and the United Nations safeguards;

(*e*) Summary and arbitrary executions, including political killings and the continuing prison cleansing, the use of rape as a political tool, as well as enforced or involuntary disappearances, routinely practised arbitrary arrests and detention and consistent and routine failure to respect due process and the rule of law;

(*f*) Widespread, systematic torture and the maintaining of decrees prescribing cruel and inhuman punishment as a penalty for offences;

5. *Calls upon* the Government of Iraq:

(*a*) To abide by its freely undertaken obligations under international human rights instruments and international humanitarian law to respect and ensure the rights of all individuals, irrespective of their origin, ethnicity, gender or religion, within its territory and subject to its jurisdiction;

(*b*) To end all summary and arbitrary executions and the imposition of the death penalty for crimes committed by persons under the age of 18 years, and to ensure that capital punishment will not be imposed for crimes other than the most serious and will not be pronounced in disregard of the obligations it has assumed under the International Covenant on Civil and Political Rights and the provisions of the United Nations safeguards;

(*c*) To establish a moratorium on executions;

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[11] See S/2002/515, annex.

(*d*) To bring the actions of its military and security forces into conformity with the standards of international law, in particular those of the International Covenant on Civil and Political Rights;

(*e*) To establish the independence of the judiciary and to abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards;

(*f*) To abolish the functioning of the temporary special courts and to ensure that the rule of law is respected at all times throughout the territory of Iraq in accordance with its freely undertaken obligation under international human rights instruments;

(*g*) To abrogate all decrees that prescribe cruel and inhuman punishment or treatment, including mutilation, and to ensure that torture and cruel punishment and treatment no longer occur;

(*h*) To abrogate all laws and procedures, including Revolution Command Council Decree No. 840 of 4 November 1986, that penalize free expression, and to ensure that the genuine will of the people shall be the basis of the authority of the State;

(*i*) To cooperate fully with the relevant mechanisms of the Commission on Human Rights, in particular its Special Rapporteur, and to ensure his access to Iraq, without preconditions, in order to allow him fully to discharge his mandate, including by allowing access to any person deemed appropriate by the Special Rapporteur;

(*j*) To implement the recommendations of the Special Rapporteur by providing detailed and comprehensive replies to letters relating to allegations of human rights violations transmitted by the Special Rapporteur and by allowing the stationing of human rights monitors throughout Iraq pursuant to the relevant resolutions of the General Assembly and the Commission on Human Rights;

(*k*) To ensure the free exercise of political opposition and to prevent the intimidation and repression of political opponents and their families;

(*l*) To respect the rights of all ethnic and religious groups and to cease immediately its continuing repressive practices, including the practice of forced deportation and relocation, aimed at the Iraqi Kurds, Assyrians and Turkmen, and to ensure the personal integrity and freedoms of all citizens, including the Shi'ah population;

(*m*) To cooperate fully with the Tripartite Commission and its Technical Subcommittee to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third-country nationals, victims of the illegal Iraqi occupation of Kuwait, to cooperate with the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights for that purpose, to cooperate with the high-level coordinator of the Secretary-General for the repatriation of all Kuwaiti and third-country nationals and the return of all Kuwaiti property in implementation of section B of Security Council resolution 1284 (1999), to pay compensation to the families of those who died or disappeared in the custody of the Iraqi authorities, through the mechanism established by the Security Council in resolution 692 (1991) of 20 May 1991, to release immediately all Kuwaitis and nationals of other States who may still be held in detention and inform families of the whereabouts of

arrested persons, to provide information about death sentences imposed on prisoners of war and civilian detainees, and to issue death certificates for deceased prisoners of war and civilian detainees;

(*n*) To cooperate further with international aid agencies and non-governmental organizations to provide humanitarian assistance and monitoring in the northern and southern areas of the country;

(*o*) To continue to cooperate in the implementation of Security Council resolutions dealing with humanitarian and human rights matters;

(*p*) To cooperate in the identification of the minefields existing throughout Iraq, with a view to facilitating their marking and eventual clearing;

6. *Requests* the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully, and decides to continue the examination of the situation of human rights in Iraq at its fifty-eighth session, under the item entitled "Human rights questions".

77th plenary meeting
18 December 2002

General Assembly

Distr.: General
28 January 2003

Fifty-seventh session
Agenda item 109 (*c*)

Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/57/556/Add.3)*]

57/233. Situation of human rights in the Democratic Republic of the Congo

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other human rights instruments,

Reaffirming that all States Members of the United Nations have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in the field,

Aware that the Democratic Republic of the Congo is a party to several international human rights and humanitarian law instruments,[3]

Recalling its previous resolutions on the subject, the most recent of which is resolution 56/173 of 19 December 2001, and those of the Commission on Human Rights, the most recent of which is resolution 2002/14 of 19 April 2002,[4] as well as Security Council resolutions on the subject, the most recent of which is resolution 1417 (2002) of 14 June 2002,

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[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] Including the International Covenant on Civil and Political Rights (see resolution 2200 A (XXI), annex), the International Covenant on Economic, Social and Cultural Rights (see resolution 2200 A (XXI), annex), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 39/46, annex), the Convention on the Elimination of All Forms of Discrimination against Women (resolution 34/180, annex), the International Convention on the Elimination of All Forms of Racial Discrimination (resolution 2106 A (XX), annex), the Convention on the Rights of the Child (resolution 44/25, annex) and the two Optional Protocols thereto (resolution 54/263, annexes I and II), the Convention on the Prevention and Punishment of the Crime of Genocide (resolution 260 A (III)), the Geneva Conventions of 12 August 1949 for the protection of victims of war (United Nations, *Treaty Series*, vol. 75, Nos. 970-973) and the first Additional Protocol thereto, of 1977 (United Nations, *Treaty Series*, vol. 1125, No. 17512), as well as the African Charter on Human and Peoples' Rights (United Nations, *Treaty Series*, vol. 1520, No. 26363).

[4] See *Official Records of the Economic and Social Council, 2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.

Recalling also the Ceasefire Agreement signed at Lusaka,[5] as well as the Kampala disengagement plan,[6] the Harare sub-plans for disengagement and redeployment, and the peace agreements signed at Pretoria[7] and Luanda,

Encouraging all Congolese parties to use the present momentum to promote an all-inclusive conclusion of the inter-Congolese dialogue,

Noting that the promotion and the protection of human rights for all are essential for achieving stability and security in the region and will contribute to the creation of the environment necessary for cooperation among States in the region,

Concerned at all violations of human rights and international humanitarian law in the territory of the Democratic Republic of the Congo by parties to the conflict, as mentioned in the reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo,[8]

Concerned in particular at continuing violations of human rights and international humanitarian law in the eastern part of the Democratic Republic of the Congo, including in the Ituri region,

Concerned about the lack of procedural and substantive safeguards in the administration of justice in the Democratic Republic of the Congo,

Recalling its decision to request the Special Rapporteurs of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances of the Commission to carry out a joint mission of investigation in the Democratic Republic of the Congo, while regretting that the security situation has not yet allowed such a mission,

1. *Welcomes*:

(*a*) The Peace Agreement, signed at Pretoria on 30 July 2002, between the Governments of the Democratic Republic of the Congo and the Republic of Rwanda on the Withdrawal of the Rwandan Troops from the Territory of the Democratic Republic of the Congo and the Dismantling of the former Forces armées rwandaises and Interahamwe Forces in the Democratic Republic of the Congo and the programme of implementation of that Agreement,[7]

(*b*) The Peace Agreement, signed at Luanda on 6 September 2002, between the Governments of the Democratic Republic of the Congo and the Republic of Uganda on the withdrawal of Ugandan troops from the Democratic Republic of the Congo and cooperation and normalization of relations between the two countries;

(*c*) The continuing dialogue between the authorities of the Democratic Republic of the Congo and Burundi, and expresses the hope that this will lead to the permanent normalization of relations between the two countries;

(*d*) The significant withdrawals of foreign troops from the territory of the Democratic Republic of the Congo;

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[5] S/1999/815, annex.

[6] See S/2000/330 and Corr.1, paras. 21–28.

[7] See S/2002/914, annex.

[8] See A/57/349 and A/57/437.

(*e*) The release by the Government of the Democratic Republic of the Congo of some human rights defenders, its lifting of some restrictions on non-governmental organizations and its adoption of Law No. 001 of 17 May 2001, on political parties;

(*f*) The commitment by the Government of the Democratic Republic of the Congo to cooperate with United Nations agencies, non-governmental organizations and the World Bank to prepare for and implement demobilization and reintegration programmes, in particular for child soldiers;

(*g*) The ratification in 2001 by the Democratic Republic of the Congo of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[9]

(*h*) The commitment of the Democratic Republic of the Congo to cooperate with the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the recent arrest and transferral to Arusha of a prominent suspect in the Rwandan genocide;

(*i*) The ratification in 2002 by the Democratic Republic of the Congo of the Rome Statute of the International Criminal Court;[10]

(*j*) The reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo[8] and her visit to the country from 13 to 19 February 2002;

(*k*) The action taken by the human rights field office in the Democratic Republic of the Congo;

(*l*) The release and repatriation carried out under the auspices of the International Committee of the Red Cross in the Democratic Republic of the Congo, in conformity with international humanitarian law, of persons at risk because of their ethnic origin and of prisoners of war;

(*m*) The continuing presence and increased deployment of the United Nations Organization Mission in the Democratic Republic of the Congo in support of the implementation of the Lusaka Ceasefire Agreement,[5] the Pretoria and Luanda peace agreements and the relevant Security Council resolutions;

(*n*) The work of the Special Representative of the Secretary-General for the Democratic Republic of the Congo and Chief of the United Nations Organization Mission in the Democratic Republic of the Congo;

2. *Condemns*:

(*a*) The continuing violations of human rights, fundamental freedoms and international humanitarian law, including acts of and incitement to ethnic hatred and violence and atrocities against civilian populations, generally committed with complete impunity;

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[9] Resolution 54/263, annex I.

[10] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June–17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

(*b*) All massacres and atrocities committed in the Democratic Republic of the Congo, as constituting indiscriminate and disproportionate use of force, in particular those occurring in areas held by armed rebels or under foreign occupation, referring in this regard to the statement by the President of the Security Council of 23 July 2002 on the massacres that occurred in the region of Kisangani on 14 May 2002 and in the ensuing period,[11] and urges that all perpetrators be brought to justice, referring in this regard to the statement by the President of the Security Council of 18 October 2002;[12]

(*c*) The reprisals against civilian populations in parts of the country controlled by the Congolese Rally for Democracy, Rwanda and Uganda;

(*d*) The occurrence of cases of summary and arbitrary execution, disappearance, torture, beating, harassment and arrest, the persecution of individuals and the arbitrary detention for long periods of persons, including journalists, opposition politicians, human rights defenders, people who have cooperated with the United Nations mechanisms and other members of civil society;

(*e*) The indiscriminate attacks on civilian populations and on hospitals in areas held by rebels and by foreign forces;

(*f*) The recruitment and use of child soldiers by armed forces and groups, including the abduction of children throughout the territory of the Democratic Republic of the Congo, in contravention of international human rights standards;

(*g*) The widespread use of sexual violence against women and children, including as a means of warfare;

3. *Expresses its concern* at:

(*a*) The adverse impact of the conflict on the situation of human rights and its severe consequences for the security and well-being of the civilian population throughout the territory of the Democratic Republic of the Congo, including the increase in the number of refugees and displaced persons, in particular in the eastern part of the country;

(*b*) The breaches of freedom of expression, opinion, association and assembly throughout the territory of the Democratic Republic of the Congo, in particular in the eastern part of the country;

(*c*) The intention of the Government of the Democratic Republic of the Congo to suspend the moratorium on the carrying out of the death penalty;

(*d*) The illegal exploitation of the natural resources of the Democratic Republic of the Congo, in view of the link between that exploitation and the conflict;

(*e*) The excessive accumulation and spread of small arms and the distribution, circulation and illicit trafficking of arms in the region and their negative impact on human rights;

(*f*) The severe insecurity, which seriously hampers the ability of humanitarian organizations to secure access to affected populations, particularly in the zones held by armed rebels and under the control of foreign forces, while

[11] S/PRST/2002/22.

[12] S/PRST/2002/27.

condemning the killing of six humanitarian workers of the International Committee of the Red Cross on 26 April 2001 in the eastern part of the Democratic Republic of the Congo and the fact that those responsible remain to be brought to justice;

4. *Urges* all parties to the conflict in the Democratic Republic of the Congo:

(*a*) To cease, in accordance with all the relevant agreements and resolutions, all military activities in the country in order to facilitate, without delay, the re-establishment of the sovereignty and territorial integrity of the Democratic Republic of the Congo;

(*b*) To acknowledge that the Pretoria and Luanda peace agreements present an unprecedented opportunity to bring peace to the entire country and therefore to suspend their armed campaigns and avoid seeking retribution against their former adversaries, which will only serve to prolong the agony of the Congolese people and the appalling humanitarian and human rights conditions that they have suffered;

(*c*) To implement all necessary measures to put an end to the widespread violations of human rights and to impunity, in particular with regard to the sexual violence against women and children;

(*d*) To allow free and secure access to areas under their control in order to permit investigations of violations of human rights and international human rights law;

(*e*) To respect international humanitarian law, in particular to ensure the safety of all civilians, and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(*f*) To ensure the safety, security and freedom of movement of United Nations and associated personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(*g*) To cooperate fully with the National Commission of Inquiry on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo;

(*h*) To extend full cooperation to the United Nations system, humanitarian organizations and the World Bank in order to ensure the rapid demobilization and reintegration of armed groups and of child soldiers in particular;

5. *Calls upon* the Government of the Democratic Republic of the Congo to take specific measures:

(*a*) To comply fully with its obligations under international human rights law and to promote and protect human rights and fundamental freedoms;

(*b*) To prevent conditions that might lead to further flows of displaced persons and refugees in the Democratic Republic of the Congo and across its borders;

(*c*) To continue to honour its commitments to reform and restore the judicial system, to abolish the death penalty and to reform military justice, including that of putting an end to the trying of civilians by the military court, in conformity with the provisions of the International Covenant on Civil and Political Rights,[2] and notes in this regard Presidential decree No. 0223/2002 of 18 November 2002;

(*d*) To put an end to impunity and to ensure that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice;

(*e*) Along with other parties to the inter-Congolese dialogue, to reach agreement with the utmost urgency on a fully inclusive transitional Government which can assert its authority and re-establish order throughout the territory of the Democratic Republic of the Congo;

(*f*) To continue to facilitate and further strengthen its cooperation with the human rights field office in the Democratic Republic of the Congo;

(*g*) To continue to cooperate with the International Tribunal for Rwanda, and demands that the Government of the Democratic Republic of the Congo continue to arrest all known *génocidaires* in its territory;

6. *Calls upon* the Governments whose forces are in occupation of part of the territory of the Democratic Republic of the Congo to respect human rights and international humanitarian law in the areas still under their control and to withdraw their troops;

7. *Calls upon* the international community to support the human rights field office in the Democratic Republic of the Congo in order to make possible the effective implementation of its programmes;

8. *Decides*:

(*a*) To continue to examine the situation of human rights in the Democratic Republic of the Congo and to request the Special Rapporteur to report to the General Assembly at its fifty-eighth session;

(*b*) To request the Special Rapporteurs of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances of the Commission to carry out, as soon as security considerations permit and, where appropriate, in cooperation with the National Commission of Inquiry to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo between 1996 and 1997, a joint mission to investigate all massacres carried out on the territory of the Democratic Republic of the Congo with a view to bringing to justice those responsible, and to report to the Commission on Human Rights at its fifty-ninth session and to the General Assembly at its fifty-eighth session;

(*c*) To request the Secretary-General to give the Special Rapporteurs and the joint mission all necessary assistance to enable them to discharge their mandate fully;

(*d*) To request the United Nations High Commissioner for Human Rights to provide the technical skills needed by the joint mission to discharge its mandate.

77th plenary meeting
18 December 2002